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In re Application of	:	
MUELLER et al.	:	
Application No.: 09/856,082	:	DECISION
PCT No.: PCT/EP99/08532	:	
Int. Filing Date: 06 November 1999	:	
Priority Date: 17 November 1998	:	
Attorney Docket No.: H 34574 PCT/US	:	
For: LUBRICANT FOR DRILLING FLUIDS	:	

This is a decision on applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 23 January 2002.

BACKGROUND

On 17 May 2001, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, a translation of the international application, and a preliminary amendment.

On 25 June 2001, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the declaration was not in compliance with 37 CFR 1.63, and that a new oath or declaration in compliance with 37 CFR 1.63 along with a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 27 August 2001, applicants filed an executed declaration and power of attorney. The executed declaration was date stamped as received in the PTO on 24 August 2001.

On 01 October 2001, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 24 August 2001. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 24 August 2001.

On 23 January 2002, applicants filed the present request to correct the filing date to 27 August 2001. The request to correct the filing date included a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label EL541614157US.

DISCUSSION

On 23 January 2001, applicants filed the petition requesting that the filing date on the filing receipt be corrected to indicate the correct date on which the declaration was filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e. 27 August 2001.

A copy of the Customer Copy of the "Express Mail" label No.#EL541614157US filed with the petition bears a "Date In" 27 August 2001, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "EL541614157US" was accepted by the USPS on 27 August 2001. The same "Express Mail" label number was placed on the "Transmittal of Declaration under 37 CFR 1.994/5(c)" and declaration located in the application file, but was date stamped as received in the PTO on 24 August 2001.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the executed declaration was filed on 27 August 2001. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 27 August 2001, and therefore the indication of a filing date of 24 August 2001, on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and the filing receipt are incorrect.

CONCLUSION

Applicants' request for issuance of a corrected filing receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 01 October 2001 is hereby **VACATED**.

The application has an international filing date of 06 November 1999 under 35 U.S.C. 363 and a date of **27 August 2001** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **27 August 2001**(U.S.C. 371(c)) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **27 August 2001**.



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